

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

DOCKET NO. 3:04-cr-00158-FDW

UNITED STATES OF AMERICA

Plaintiff,

vs.

THOMAS LEROY WHITE,

Defendant.

)
)
)
)
)
)
)
)
)
)

ORDER

THIS MATTER is before the Court on Defendant's Motion to Correct Judgment (Doc. No. 30), filed April 9, 2008, pursuant to Fed. R. Crim. P. 36. Thomas White is a federal prisoner serving a sixty (60) month sentence for unlawful transportation of firearms.

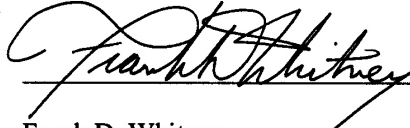
Defendant contends that the Court neglected to give him credit for time served and asks the Court, pursuant to Rule 36 of the Federal Rules of Criminal Procedure, to "correct" the judgment entered against him. Rule 36 provides that a district court may correct clerical errors in the judgment or errors in the record arising from oversight or omission. However, a claim for credit for time served prior to the date of a federal sentence is not cognizable in a proceeding brought under Rule 36. United States v. Mares, 868 F.2d 151 (5th Cir. 1989). The Attorney General of the United States, acting through the Bureau of Prisons ("BOP"), not the sentencing court, has the authority to compute the amount of presentence credit awarded to a defendant. United States v. Wilson, 503 U.S. 329, 335 (1992). Thus, the BOP determines when a sentence begins and whether a defendant should receive credit for time previously spent in custody. Id. Furthermore, any challenges to the computation of a sentence must be brought under 28 U.S.C. § 2241 in the district of confinement.

United States v. Miller, 871 F.2d 488, 490 (4th Cir. 1989) (citing United States v. Brown, 753 F.2d 455, 456 (5th Cir. 1985)). Here, Defendant is currently incarcerated in Bennettsville, South Carolina. Thus, judicial review should be sought in the District of South Carolina.

IT IS THEREFORE ORDERED that Defendant's Motion to Correct Judgment (Doc. No. 30) is DISMISSED. In addition to counsel of record, the Clerk is directed to serve a copy of this order on Defendant at Federal Correctional Institution, P.O. Box 52020, Bennettsville, South Carolina 29512.

IT IS SO ORDERED.

Signed: December 10, 2008



Frank D. Whitney
United States District Judge

